

REMARKS

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Claims 1, 3-12, and 14-19 are presently pending in the present application. Claims 1, 7, 10, 12, 16, and 18 have been amended by way of the present Amendment. Claims 2, 13, and 20 have been canceled without prejudice or disclaimer. No new matter is introduced by this amendment.

In the Office Action, claims 1, 5-7, 10-12, and 14-19 were rejected under 35 U.S.C. §103(a) as being obvious in view of *Weiler et al.* (U.S. Patent No. 5,970,395) and *Randall et al.* (U.S. Patent No. 5,589,833), and claims 3, 4, 8, and 9 were rejected under 35 U.S.C. §103(a) as being obvious in view of *Weiler et al.* and *Randall et al.* and further in view of Agilent PNA Network Analyzers. The Applicants respectfully request the withdrawal of the obviousness rejections for the reasons set forth below.

MPEP §2141 notes that the Patent Office bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. MPEP §2142 further notes that “[t]o reach a proper determination under 35 U.S.C. 103, the examiner must step backward in time and into the shoes worn by the hypothetical ‘person of ordinary skill in the art’ when the invention was unknown and just before it was made. Knowledge of applicant's disclosure must be put aside in reaching this determination, yet kept in mind in order to determine the "differences," conduct the search and evaluate the "subject matter as a whole" of the invention. However, impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art.” The Applicants submit that the record does not establish a *prima facie* case of obviousness.

Independent claim 1 recites “a first high-frequency module including a transmitter device configured to communicate with the device under test ... wherein ... the first high-frequency module is configured to subsequently forward the bitstream to the device under test using the transmitter device....” Independent claim 12 recites “a first high-frequency module including a transmitter device configured to communicate with the device under test ... wherein ... the first high-frequency module is configured to subsequently forward the second bitstream to the device under test using the transmitter device.” Independent claim 16 recites “forming, based on the input data, a first bitstream for transmission via a digital interface to a first high-frequency module, the first high-frequency module including a transmitter configured to communicate with the device under test to subsequently forward the first bitstream to the device under test....”

The applied art, either when taken singularly or in combination, fail to disclose all of the above features.

In the Office Action, the portable computer (15) of *Weiler et al.* is cited as the device under test, the monitoring unit (5) as the measuring-device unit, and receiver units (3a-3n) as the at least one high-frequency module. *Weiler et al.* is cited for the teaching of the features of claim 1 except that the Office Action notes that *Weiler et al.* fails to explicitly disclose manually inputting into a measuring device unit and processing input data including assigning input symbols to states in a state diagram of an I-Q level in the measuring device. For such features, the Office Action cites *Randall et al.*

With respect to the previously added limitations reciting a first high-frequency module comprising a transmitter device and a second high-frequency device comprising a receiver device configured to communicate with the device under test, the Office Action indicates that *Weiler et al.* teaches such features in column 4, lines 10-13. This portion of *Weiler et al.* describes the

receipt by receiver units (3a to 3n) of radiation signals from the portable computer (15) and the transmission of a corresponding data signal by the receiver units (3a to 3n) to the monitoring unit (5). Thus, it appears that the transmission of the data signal from the receiver units to the monitoring unit is being cited as the transmitter device.

Furthermore, regarding the recitation in the claims of the forwarding of a bitstream from a high-frequency module to the device under test, the Office Action cites FIGS. 4 and 5, column 4, lines 53-67, column 5, lines 10-32, and column 6, lines 23-33. The only portion of this citation that is arguably even vaguely relevant to the teaching of such a feature is the discussion in column 6, lines 23-33, which discusses the wireless transmission of signals and the inclusion of a transmitter in units 3. However, the cited discussion in column 6 relates to communications between the receiver units (3a to 3n) and the monitoring unit (5), and does not disclose any transmission from the receiver units to the portable computer (15), which is cited for the device under test.

Thus, the Applicants respectfully submit that the citation in *Weiler et al.* for the teaching of the recitation in the claims of the forwarding of a bitstream from a high-frequency module to the device under test is improper, since such a feature is not disclosed therein. Therefore, the obviousness rejections are traversed for at least this reason.

Furthermore, the distinctions between the description in *Weiler et al.* and the claims have been further accentuated by the amendments to the claims set forth herein. Independent claims 1, 12, and 16 recite **a first high-frequency module including a transmitter device configured to communicate with the device under test to subsequently forward a bitstream to the device under test.** As noted above, the Office Action cites the portable computer (15) of *Weiler et al.* for the teaching of a device under test, and receiver units (3a-3n) as the high-

frequency module, yet the apparatus and method described in *Weiler et al.* never discloses forwarding a bitstream from the receiver units (3a-3n), or any other device, to the personal computer (15). The personal computer (15) is merely being monitored for high frequency interference signals in a unidirectional manner. In fact, the apparatus and method described in *Weiler et al.* **do not include any structure capable of forwarding a bitstream to the personal computer**, nor does the reference disclose a reason for doing so.

Weiler et al. describes an apparatus for detecting high frequency interference radiation signals, such as radio frequency emissions, onboard a passenger aircraft that includes at least two receiver units for receiving and measuring the interference radiation signal, and a monitoring unit for evaluating the signal measurement results. The apparatus detects the undesired radiation of a switched on notebook (i.e., the device under test) which is plugged into the power supply of the aircraft cabin using HF-receiver modules. But there is not communication from the HF-receiver modules to the notebook. The HF receiver modules do not transmit anything to the device under test. Also, the HF-receiver modules are detecting only the electromagnetic radiation of the device under test, and not any information, for example a bitstream, coded in it.

Furthermore, *Randall et al.* describes a personal computer based integrated radar acquisition (PIRAQ) system. This reference does not describe any feature that could be considered the device under test, nor does it describe any structures in communication with such a device under test. Such a radar system merely reflects a signal off an object, but clearly does not describe a device that transmits a bitstream to a device under test, or can communicate with a device under test. The apparatus cannot distinguish whether the received radiation comes from the object intrinsically, or is caused by a reflection off the object.

Both *Weiler et al.* and *Randall et al.* fail to teach configurations that can transmit a bitstream to a device under test, and a receiver that can communicate with the device under test. Thus, these systems cannot test communications with a device under test. Neither *Weiler et al.* nor *Randall et al.* teaches an apparatus that is able to communicate with a device under test by transmitting and/or receiving bitstreams in the manner recited in the claims of the present application.

Thus, the cited references, either when taken singularly or in combination, fail to disclose or suggest all of the features recited in independent claims 1, 12, and 16. Accordingly, the Patent Office has failed to fulfill the critical role of factfinder, and has therefore failed to satisfy the initial burden of factually supporting any *prima facie* conclusion of obviousness in light of the pending independent claims. The Applicants request that such evidentiary support be placed on the record, or the obviousness rejections withdrawn.

The dependent claims are considered allowable for the reasons advanced for the independent claim from which they depend. These claims are further considered allowable as they recite other features of the invention that are neither disclosed nor suggested by the applied references when those features are considered within the context of their respective independent claim.

Therefore, the present application, as amended, overcomes the rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 519-9957 so that such issues may be resolved as expeditiously as possible.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,
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